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6 ATTORNEY FOR NON-PARTY APPLE INC.

7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**

9 ORACLE AMERICA, INC.,
10

11 Plaintiff,

12 vs.

13 GOOGLE INC.,
14

15 Defendant.

Case No. 3:10-cv-03561-WHA

DECLARATION OF MARK D. SELWYN

1 I, Mark D. Selwyn, hereby declare as follows:

2 1. I am a partner at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP,
3 counsel for Apple Inc. ("Apple") in *Apple Inc. v. Samsung Electronics Co., Ltd., et al.*, Case No.
4 12-cv-00630 (N.D. Cal.) (the "Apple-Samsung litigation"). I am licensed to practice law in the
5 State of California, the Commonwealth of Massachusetts, and the State of New York, and am
6 admitted to practice before the U.S. District Court for the Northern District of California. I am
7 familiar with the facts set forth herein, and, if called as a witness, I could and would testify
8 competently to those facts under oath.

9 2. I submit this declaration in support of Oracle's Administrative Motion to File
10 Under Seal (ECF No. 1339) filed in connection with Oracle's Notice of Motion and Motion to
11 Disqualify the Rule 706 Expert ("Oracle's Motion to Disqualify").

12 3. Apple does not maintain a claim of confidentiality with respect to the portions
13 filed under seal of page 5 of Oracle's Motion to Disqualify.

14 4. However, pages 5-10 of Exhibit 5 to the Declaration of Peter A. Bicks in Support
15 of Oracle's Motion to Disqualify contain confidential Apple financial information. Specifically,
16 these pages reflect confidential unit sales information for Apple products at issue in the Apple-
17 Samsung litigation, and therefore should be sealed. The Federal Circuit has previously approved
18 Apple's request to seal similar information. *See, e.g., Apple Inc. v. Samsung Electronics Co.,*
19 *Ltd., et al.*, 727 F.3d 1214, 1223-29 (Fed. Cir. Aug. 23, 2013) (approving the sealing of, among
20 other things, product-specific sales information).

21 5. Further, a lower standard of review applies to Oracle's sealing request because
22 Oracle's Motion to Disqualify is not a dispositive motion and the confidential information at
23 issue has little, if any, relevance to the above-captioned litigation. *See id* at 1222-23. This is
24 especially true here, as the confidential information at issue is Apple's and Apple is not a party to
25 the above-captioned litigation. Accordingly, the relief requested by Apple is necessary and
26 reasonably tailored to protect its confidential information.

1 6. For the foregoing reasons, Apple supports Oracle's Administrative Motion to File
2 Under Seal with respect to pages 5-10 of Exhibit 5, and respectfully requests that the Court to
3 seal those pages.
4

5 I declare under penalty of perjury that the foregoing is true and correct to the best of my
6 knowledge and that this declaration was executed this 19th day of October, 2015.
7

8 Dated: October 19, 2015

/s/ Mark D. Selwyn
Mark D. Selwyn

ATTESTATION OF CONCURRENCE

I, Peter A. Bicks, the ECF User whose ID and password are being used to file this declaration, hereby attest that Mark D. Selwyn has concurred in this filing.

Dated: October 19, 2015

By: /s/ Peter A. Bicks